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U.S. DEPARTMENT OF AGRICULTURE

WAR FOOD ADMINISTRATION

A [WFO 101]

Part 1405—Fruits and Vegetables

CUCUMBER PICKLES AND PICKLE PRODUCTS

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of cucumber pickles and pickle products for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1405.42 *Restrictions relative to cucumber pickles and pickle products*—(a) *Definitions.* (1) "Cucumber pickle" means any cucumber, whether or not mature, whole, cured, or partially cured.

(2) "Pickle product" means any product of cucumber pickles including, but not being limited to, any product composed of cucumber pickles or any portion or product thereof. This term shall not, however, include any pickle products which, on the effective date hereof, are already packed in separate containers of less than one gallon capacity.

(3) "Packer" means:

(i) Any person who, during the calendar year 1943 or the period from January 1, 1944, up to and including June 4, 1944, acquired, in the aggregate, a total quantity of 3,000 bushels, or more, of cucumber pickles or pickle products, or both, and performed any of the following functions or had any such performed for his account: (*a*) cured or partially cured cucumber pickles for sale; (*b*) prepared cucumber pickles for curing or partial curing for sale; (*c*) produced pickle products for sale; and (*d*) packaged pickle products for sale; or

(ii) Any person who, during the calendar year 1944 or any subsequent calendar year, acquires, in the aggregate, a total quantity of 3,000 bushels, or more, of cucumber pickles or pickle products, or both, and performs any of the following functions or has any such performed for his account: (*a*) cures or partially cures cucumber pickles for sale; (*b*) prepares cucumber pickles for curing or partial curing for sale; (c) produces pickle products for sale; and (*d*) packages any pickle products for sale.

(4) "Salter" means any person who cures cucumber pickles, only in brine, for sale and performs no other function specified, in (a) (3) hereof, for a packer.

(5) "Cure" means to treat cucumber pickles with brine, vinegar, or any other liquid with or without other ingredients.

(6) "Brine" means a solution of salt and water to which no other ingredient has been added.

(7) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons whether incorporated or not.

(8) "Army" means the Chicago Quartermaster Depot, Subsistence Branch, 1819 West Pershing Road, Chicago 9, Illinois.

(9) "Bushel" means (i) a quantity of cucumber pickles or pickle products, or both, weighing 50 pounds drained weight, or (ii) a quantity of pickle products equal to 6 gallons of pickle products.

(10) "Director" means the Director of Distribution, War Food Administration.

(b) *Restriction.* (1) No packer shall sell, contract to sell, or deliver, except to the Army, any cucumber pickles or pickle products owned by him on the effective date of this order (i) unless such packer contracted, prior to the effective date hereof, to sell to the Army, out of such cucumber pickles and pickle products, or (ii) until such packer sells, contracts to sell, or delivers to the Army, out of such cucumber pickles and pickle products, a quantity of pickle products equal at least to 25 percent of the total number of bushels of such cucumber pickles and pickle products.

(2) No packer shall sell, contract to sell, or deliver, except to the Army, any cucumber pickles, acquired by him after the effective date of this order, or any pickle products produced therefrom unless such packer first sells, contracts to sell, or delivers to the Army a quantity of pickle products, produced from such cucumber pickles, equal at least to 25 percent of the total number of bushels of such cucumber pickles.

(3) No salter is required to comply with the provisions of (b) (1) or (b) (2) hereof.

(c) *Contracts.* The provisions of this order shall be observed without regard to contracts heretofore or hereafter entered into or any rights accrued or any payments made thereunder. This order shall not, however, be construed as reducing the amount of pickle products which any packer is required to offer or deliver pursuant to contracts heretofore or hereafter entered into with the Army.

(d) *Records and reports.* (1) Each person who, on the effective date hereof, is a packer or a salter shall mail to the Chicago Quartermaster Depot, Subsistence Branch, 1819 West Pershing Road, Chicago 9, Illinois:

(i) Not later than 10 calendar days after the effective date hereof, a report (in triplicate) on Form FDO No. 101–1;

(ii) Not later than October 10, 1944, a report (in triplicate) on Form FDO No. 101–2 for the period commencing on the calendar day following the effective date hereof and ending on September 30, 1944, inclusive; and

(iii) Not later than 10 calendar days following the last day of each consecutive three-month period thereafter, a report (in triplicate) on Form FDO No. 101–2.

(2) Each person who, after the effective date hereof but prior to October 1, 1944, becomes a packer or a salter shall mail, as aforesaid, such reports as are required pursuant to the provisions of (d) (1) (ii) and (iii) hereof, respectively.

(3) Each person who, after September 30, 1944, becomes a packer or a salter shall mail, as aforesaid, such reports as are required pursuant to the provisions of (d) (1) (iii) hereof.

(4) The reports required by the provisions hereof shall be correctly made, by each person required to submit a report, and all information shall be submitted by completely filling in the respective report forms required by the provisions hereof.

(5) The Director shall be entitled to obtain such additional information from, and require such additional reports and the keeping of such records by, any person, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order.

(6) Every person subject to this order shall ,for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in cucumber pickles and pickle products.

(e) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of cucumber pickles and pickle products of any person, and to make such investigations, as may be necessary or appropriate, in the Director's discretion, for the enforcement or administration of the provisions of this order.

(f) *Petitions for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a petition for relief with the Order Administrator. Such petition shall be addressed to Order Administrator, War Food Order No. 101, Fruit and Vegetable Branch, Office of Distribution, War Food Administration, Washington 25, D. C. Petition for such relief shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The Order Administrator may take any action with reference to such petition which is consistent with the authority delegated to him by the Director. If the petitioner is dissatisfied with the action taken by the Order Administra-

tor on the petition, he shall obtain, by requesting the Order Administrator therefor, a review of such action by the Director. The Director may, after said review, take such action as he deems appropriate, and such action shall be final. The provisions of this paragraph (f) shall not be construed to deprive the Director of authority to consider originally any petition for relief from hardship submitted in accordance herewith The Director may consider any such petition and take such action with reference thereto that he deems appropriate, and such action shall be final.

(g) *Violations.* Any person who violates any provision of this order may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using cucumber pickles or pickle products, or any other material subject to priority or allocation control by any governmental agency. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(h) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order; and one such employee shall be designated by the Director to serve as Order Administrator.

(i) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise provided herein or in instructions issued by the Director, be addressed to the Order Administrator, WFO 101, Fruit and Vegetable Branch, Office of Distribution, War Food Administration, Washington 25, D. C.

(j) *Effective date.* This order shall become effective at 12:01 a. m., e. w. t., June 5, 1944.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 2d day of June 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO 101.

Under War Food Order 101, effective at 12:01 a. m., EWT, June 5, 1944, no packer may sell, contract to sell, or deliver, except to the Army, any of the cucumber pickles or the pickle products which he owns on June 5, 1944, unless he has contracted to deliver to the Army from those cucumber pickles and pickle products a quantity of pickle products equal to at least 25 percent of the stocks owned by him on that date. In addition, no packer may dispose of any cucumber pickles acquired by him after June 4, 1944 or any product made therefrom until he sells, contracts to sell, or delivers to the Army a quantity of pickle products produced from such cucumber pickles equal to at least 25 percent of the cucumber pickles acquired by him after that date.

A "packer" is described in the order as "any person who, during the calendar year 1943 or the period from January 1, 1944, up to and including June 4, 1944, acquired, in the aggregate, a total quantity of 3,000 bushels, or more, of cucumber pickles or pickle products, or both, and performed any of the following functions or had any such performed for his account: (a) cured or partially cured cucumber pickles for sale; (b) prepared cucumber pickles for curing or partial curing for sale; (c) produced pickle products for sale; and (d) packaged pickle products for sale; or any person who, during the calendar year 1944 or any subsequent calendar year, acquires, in the aggregate, a total quantity of 3,000 bushels, or more, of cucumber pickles or pickle products, or both and performs any of the following functions or has any such performed for his account: (a) cures or partially cures cucumber pickles for sale; (b) prepares cucumber pickles for curing or partial curing for sale; (c) produces pickle products for sale; and (d) packages any pickle products for sale.

A "salter" according to the order, is any person who cures cucumber pickles, only in brine, for sale and performs no other function specified for a packer.

The order also requires each packer and each salter to file a report with the Chicago Quartermaster Depot, Subsistence Branch, 1819 West Pershing Road, Chicago 9, Illinois by June 15, 1944, listing the quantity of cucumber pickles and pickle products on hand, and a quarterly report thereafter showing the quantities of cucumber pickles and pickle products which they acquire from the 1944 crop. The first quarterly report will be due October 10.

Report forms will be mailed to both packers and salters by the War Food Administration. However, packers and salters desiring copies of these forms may obtain them by writing: War Food Administration, Office of Distribution, Fruit and Vegetable Branch, Washington 25, D. C., Ref: WFO 101 or any of the regional offices of the Office of Distribution located at New York, Chicago, San Francisco, Dallas or Atlanta.

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WAR FOOD ADMINISTRATION

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[WFO 101, Amdt. 2]

Part 1405—Fruits and Vegetables

Cucumber pickles and pickle products

War Food Order No. 101 (9 F.R. 6053) issued on June 2, 1944, with respect to cucumber pickles and pickle products, is amended by deleting therefrom the provisions in § 1405.42 (b) (1) and (2) and inserting, in lieu thereof, the following:

(1) No packer shall sell, contract to sell, or deliver, except to the Army, any cucumber pickles or pickle products owned by such packer on August 17, 1944, but this restriction does not apply to any packer who contracted, prior to the aforesaid date, to sell to the Army, out of such cucumber pickles and pickle products owned by such packer, a quantity of pickle products equal at least to 40 percent of the total number of bushels of such cucumber pickles and pickle products. This restriction shall continue in effect until the respective packer sells, contracts to sell, or delivers to the Army, out of such cucumber pickles and pickle products owned by the respective packer, a quantity of pickle products equal at least to 40 percent of the total number of bushels of such cucumber pickles and pickle products.

(2) No packer shall sell, contract to sell, or deliver, except to the Army, any cucumber pickles acquired by him after August 17, 1944, or any pickle products produced therefrom unless such packer first sells, contracts to sell, or delivers to the Army a quantity of pickle products, produced from such cucumber pickles, equal at least to 40 percent of the total number of bushels of such cucumber pickles.

This amendment shall become effective at 12:01 a. m., e. w. t., August 17th, 1944. With respect to violations, rights accrued, liabilities incurred, or appeals taken under said War Food Order No. 101 prior to the effective time of the provisions hereof, the provisions of said War Food Order No. 101 in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with regard to any such violation, right, liability, or appeal.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 16th day of August 1944.

Grover B. Hill,
First Assistant War Food Administrator.

War Food Administration,
Summary to WFO 101 Amendment 2.

The quantity of cucumber pickles, cucumber pickle products and acquirements which a packer must first contract to sell to the army before making other sales has been raised from 25 percent to 40 percent, the War Food Administration announced today.

Effective August 17th, this action is contained in an amendment to War Food Order 101 which freezes the sale of cucumber pickles and cucumber pickle products until the specified percentage has been contracted for sale to the army. Transactions completed prior to the effective date of the amendment under the provisions of the order are valid as made.

WFA officials explained that the new amendment does not indicate greater army procurement needs but that it is necessary to increase the percentage of cucumber pickles and cucumber pickle products reserved for the army in order to meet original requirements. At the time the 25 percent reserve was established (June 5, 1944) it was not known exactly what proportion of the pack would be needed for army procurement.

From an estimated pack of 36 million gallons during the 1944–45 season, the army procurement requirements under the coordinated buying program which purchases for all government agencies, are estimated at approximately 13 million gallons.

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[WFO 101, Amdt. 4]

PART 1405—FRUITS AND VEGETABLES

CUCUMBER PICKLES AND PICKLE PRODUCTS

War Food Order No. 101 (9 F.R. 6053) issued on June 2, 1944, as amended (9 F.R. 9584, 10035), with respect to cucumber pickles and pickle products, is further amended by deleting therefrom the provisions in § 1405.42 (b) (1), (2), and (3) and inserting, in lieu thereof, the following:

(1) No packer shall sell, contract to sell, or deliver, except to the Army, any cumber pickles or pickle products owned by such packer on August 17, 1944, but this restriction does not apply to any packer who contracted, prior to the aforesaid date, to sell to the Army, out of such cucumber pickles and pickle products owned by such packer, a quantity of pickle products equal at least to 40 percent of the total number of bushels of such cucumber pickles and pickle products.

(2) No packer shall sell, contract to sell, or deliver, except to the Army, any cucumber pickles acquired by him subsequent to August 17, 1944, or any pickle products produced therefrom unless such packer first sells, contracts to sell, or delivers to the Army a quantity of pickle products, produced from such cucumber pickles, equal at least to 40 percent of the total number of bushels of such cucumber pickles.

(3) The provisions in (b) (1) and (b) (2) hereof shall not apply to any packer who sells, contracts to sell, or delivers to the Army a quantity of pickle products equal at least to 40 percent of the total number of bushels (i) of all cucumber pickles and pickle products owned by such packer on August 17, 1944, and (ii) of all cucumber pickles acquired by such packer subsequent to August 17, 1944.

(4) No packer shall acquire or use any cucumber pickles unless such packer (i) has complied with the provisions in (b) (1) and (b) (2) hereof, or with the provisions in (b) (3) hereof, or (ii) is acquiring or using such cucumber pickles to enable him to comply with the provisions in (b) (2) or (b) (3) hereof.

(5) No packer shall acquire any pickle products unless such packer (i) has complied with the provisions in (b) (1) and (b) (2) hereof, or with the provisions in (b) (3) hereof, or (ii) is acquiring such pickle products to enable such packer to comply with the provisions in (b) (2) or (b) (3) hereof.

(6) Any cucumber pickles or pickle products which were included in a quantity of cucumber pickles or pickle products with respect to which the requisite percentage of pickle products has been sold or delivered to the Army shall thereafter, even in the hands of a subsequent owner, be free from the restrictions hereof: *Provided,* That if such subsequent owner is a packer, such packer shall acquire such cucumber pickles or pickle products pursuant to (b) (4) or (b) (5) hereof and such packer shall be entitled to rely on the certificate required herein unless he knows or has reasonable cause to believe such certificate to be false. Each packer who sells or delivers to another packer any of the aforesaid cucumber pickles or pickle products which become free from the restrictions hereof shall also deliver to such other packer a signed certificate in substantially the following language:

This is to certify that the undersigned packer has, in accordance with War Food Order No. 101, (9 F.R. 6053), as amended, delivered to_____, another
(name of packer)
packer:
(1) _____ bushels of cucumber pickles,
(2) _____ bushels of pickle products.
Such cucumber pickles and pickle products are free from the restrictions of War Food Order No. 101, as amended.

_____
(signature of packer)

Each such certification made by a packer shall be deemed to be a representation to an agency of the United States.

(7) No salter is required to comply with the provisions of (b) (1), (2), (3), (4), or (5) hereof.

This amendment shall become effective at 12:01 a. m., e. w. t., February 7, 1945. With respect to violations, rights accrued, liabilities incurred, or appeals taken under said War Food Order No. 101, as amended, prior to the effective time of the provisions hereof, the provisions of said War Food Order No. 101, as amended, in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with regard to any such violation, right, liability, or appeal.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 6th day of February 1945.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO 101, Amendment 4.

The War Food Administration has further amended War Food Order No. 101 to prevent the diversion of cucumber pickles into a type or quality of pickle product which is unacceptable to the Army Quartermaster Corps.

Under the amendment, effective *February 7, 1945,* pickle packers who are not in compliance with provisions of WFO 101, as amended, may not acquire or use brine stock pickles or acquire pickle products unless they are doing so for the purpose of meeting their quota obligations prescribed in the order, as amended.

Under WFO 101, as amended, no packer may make any contract of sale or delivery of cucumber pickles or pickle products with respect to his inventory of such items on August 17, 1944, unless he first sells, contracts to sell, or delivers, to the Army, at least 40 percent of such commodities. A similar restriction applies to acquisitions of cucumber pickles acquired subsequent to August 17, 1944, and pickle products produced therefrom. In lieu of the foregoing, a packer may make Army contracts for, or deliveries of, a quantity, of pickle products equal at least to 40 percent of the total number of bushels of all cucumber pickles and pickle products owned by him on August 17, 1944, and all cucumber pickles acquired after that date.

Packers who are unable to manufacture pickle products according to Army specifications may, under the amended order, acquire from the "free stocks" of other packers acceptable quantities sufficient to fulfill their quota obligations. The term "free stocks" means that 60 percent of the pickle products remaining after the required 40 percent has been made available to the QMC.

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[WFO 101, Amdt. 5]

PART 1405—FRUITS AND VEGETABLES

CUCUMBER PICKLES AND PICKLE PRODUCTS

War Food Order No. 101 (9 F.R. 6053) issued on June 2, 1944, as amended (9 F.R. 9584, 10035, 10 F.R. 103, 1644), with respect to cucumber pickles and pickle products, is further amended by deleting therefrom the provisions in § 1405.42 (b) (2) and (3) and inserting, in lieu thereof, the following:

(2) No packer shall sell, contract to sell, or deliver, except to the Army, any cucumber pickles acquired by him subsequent to August 17, 1944, or any pickle products produced therefrom unless such packer first sells, contracts to sell, or delivers to the Army a quantity of pickle products, produced from such cucumber pickles, equal at least to 40 percent of the total number of bushels of the cucumber pickles acquired by such packer subsequent to August 17, 1944, and prior to May 1, 1945.

(3) The provisions in (b) (1) and (b) (2) hereof shall not apply to any packer who sells, contracts to sell, or delivers to the Army a quantity of pickle products equal at least to 40 percent of the total number of bushels (i) of all cucumber pickles and pickle products owned by such packer on August 17, 1944, and (ii) of all cucumber pickles acquired by such packer subsequent to August 17, 1944, and prior to May 1, 1945.

This amendment shall become effective at 12:01 a. m., e. w. t., August 7, 1945.

With respect to violations, rights accrued, liabilities incurred, or appeals taken under said War Food Order No. 101, as amended, prior to the effective time of the provisions hereof, the provisions of said War Food Order No. 101, as amended, in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with regard to any such violation, right, liability, or appeal.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783; E.O. 9577, 10 F.R. 8087)

Issued this 4th day of August 1945.

[SEAL] J. B. HUTSON,
Acting Secretary of Agriculture.

War Food Administration,
Summary to WFO 101, Amendment 5.

All packers of cucumber pickles and pickle products who have completed their requirements under War Food Order 101 were exempted from the provisions of the order, effective August 7, 1945, under Amendment 5 announced today by the U. S. Department of Agriculture. However, those packers who have not contracted for sale to or have not delivered to Army procurement officers a quantity of pickle products equal at least to 40 percent of the total amount of cucumber pickles and pickle products owned by them on August 17, 1944 or acquired by them subsequent to that date and prior to May 1, 1945, are still required to complete their total obligations under the amendment to the order, even though such fulfillment may mean drawing from their 1945 pack.

In announcing the amendment, USDA officials explained that a new percentage "set-aside" of pickle products from the 1945 crop was not now considered necessary if all the amounts called for from the 1944 pack are delivered to the Army. Many packers have already completed the delivery of the required "set-aside" amount. As the remaining packers complete deliveries they too will be exempted from the provision of the order.

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